

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 12/9/2020

United States of America,

—v—

17-cr-151 (AJN)

Robert Pizarro,

ORDER

Defendant.

ALISON J. NATHAN, District Judge:

The Court received by mail the attached addendum to Mr. Pizarro's motion for compassionate release, motion for release on bond pending appeal, and reply to the Government's opposition to his motion for compassionate release.

To the extent that Mr. Pizarro seeks release on bond pending disposition of his motion to vacate or direct appeal of his conviction, that request is DENIED.

Mr. Pizarro's motion for compassionate release is now fully briefed, and the Court will consider it on the merits.

SO ORDERED.

Dated: December 9, 2020  
New York, New York

  
ALISON J. NATHAN  
United States District Judge

Honorable Alison J. Nathan  
United States District Judge  
United States Courthouse  
40 Foley Square  
New York, New York 10007

December 2, 2020

Re: United States v. Robert Pizarro, 5:17-cr-151 (AJN)

## MOTION

Addendum to Pizarro's Response for Compassionate release.

Comes Now Pro se Petitioner Robert Pizarro and Request That This Court Hold His Prose Brief to a less Stringent Standard than One Filed and Prepared by A Seasoned Attorney. (Thomas v. Eby, 481 U.S. 434, 440 (6th cir. 2001)); (Haines v. Kerner, 404 U.S. 519-21 (1972))

Pizarro provides two additional exhibits as to the rapidly growing severity of the COVID-19 Pandemic here at USP Canaan, as the Governments response downplays to this Honorable Court. As noted, so many people do not display symptoms, and this facility does not provide testing to the general population inmates unless they display symptoms or been exposed to someone who has. See (Attachments A and B) Also, the inmates at this facility are not provided the proper CDC approved mask, which the inmates have to wear the same clothes mask for months at a time. for all the foregoing reasons, including the evidence provided for Pizarro's Actual Innocence Claim, Petitioner so prays his Compassionate release be granted at this time.

Respectful Submitted



A

U. S. Department of Justice

Federal Bureau of Prisons

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USP Canaan

3057 Eric J. Williams Memorial Drive  
Waymart, PA 18472

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November 30, 2020

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**MEMORANDUM FOR: THE INMATE POPULATION**

FROM: E. Bradley, Warden

SUBJECT: Facial Masks for Staff

Due to positive inmate cases identified in F1, F2, B2, and D1 housing units, movement will be limited. We are currently monitoring the inmate population and symptom checking. Care kits are being handed out to all inmates to include hygiene and sanitation items. Please report any symptoms to medical staff.



B

U. S. Department of Justice

Federal Bureau of Prisons

**USP Canaan**

3057 Easton Turnpike  
Waymart, PA 18472

December 2, 2020

NOTIFICATION FOR THE INMATE POPULATION

FROM: *E. Bradley* E. Bradley, Warden  
SUBJECT: *E. Bradley* COVID Update

As all of you are aware, we have identified multiple cases of COVID-19 at USP Canaan. Confining you in your cells is not what any of us want. However, Medical staff are concerned this outbreak could lead to additional transmissions. The Executive Staff are not utilizing this quarantine status for disciplinary reason, but rather for your safety to mitigate the virus.

The last several months have been a challenge for all of us. Unfortunately, this has resulted in the suspension of many routine activities, leading up to our current quarantine status. Our focus has been to return to normal as soon as possible. We have discussed a shower plan, and providing a way to maintain communication with your families. Staff will begin issuing stamps to each of you this week. The distribution of limited commissary is also something we are discussing for the near future.

I can assure you that both staff and inmate safety is our main focus as we try to make it through this Pandemic.

Honorable Judge Alison J. Nathan  
United States District Court  
Southern District of New York  
40 Foley Square

(United States v. Robert Pizarro)  
Case No: 17-cr-151

## MOTION

For consideration, Rehabilitation Act Pursant to criminal Justice Act (CJA), First step Act, Fair Sentencing Act, and Bond while on Appeal

Robert Pizarro writes in addition to his Pro Se actual innocence claim motion submitted to this District Court. Also to his submitted Compassionate release motion, and or request bond while pending appeal.

Pizarro has obtained his GED while incarcerated, and has also maintained clear conduct throughout the entirety of being imprisoned. The actual /Factual innocence evidence proves that Pizarro is not a threat or danger to anyone, let alone his community. The alleged allegations against Pizarro is exactly what it is, allegations, with no merit or evidence of any Supporting. (Bousley v. United States) (1998)

Pizarro has submitted overwhelming substantial evidence in support of his innocence, along with even more overwhelming substantial evidence of obstruction from his opposing side.

Petitioner Prays that his bond and actual innocence claims for relief be granted, and or adjudicated.

Respectfully Submitted: Robert Pizarro

Certificate of Service: Nov. 19, 2020

# Office of the State Superintendent of Education

This Certifies That

**ROBERT PIZARRO**

having satisfactorily completed the Tests of General Educational Development  
with scores comparable to those of high school graduates,  
is hereby awarded this

**High School Equivalency Credential**

and is entitled to all the Rights and Privileges appertaining thereto.

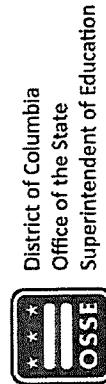
In witness whereof our names are hereto affixed, this the  
26<sup>th</sup> Day of October, 2020



Hanseul Kang  
State Superintendent of Education  
Superintendent of Education



Antoinette S. Mitchell, Ph.D.  
Assistant Superintendent  
Postsecondary and Career Education  
Philip L. PremDas  
GED Administrator



\*\*\* GOVERNMENT OF THE DISTRICT OF COLUMBIA  
MURIEL BOWSER, MAYOR

CAAAS \* INMATE DISCIPLINE DATA \* 11-16-2020  
PAGE 001 OF 001 \* CHRONOLOGICAL DISCIPLINARY LOG (CONDENSED) \* 09:53:06

REGISTER NO: 69026-054 NAME..: PIZARRO, ROBERT  
FUNCTION...: PRT FORMAT: CONDENSED LIMIT TO \_\_\_\_ MOS PRIOR TO 11-16-2020

G5401 DISCIPLINE DATA DOES NOT EXIST FOR THIS INMATE

Honorable Judge Alison J. Nathan  
United States District Judge  
United States Courthouse  
40 Foley Square  
New York, New York 10007

November 26, 2020

Re: United States v. Robert Pizarro, S4 17-cr-151 (AJN)

## MOTION

Response to Government's opposing argument for Pizarro's  
Compassionate release.

Comes Now Pro Se Petitioner Robert Pizarro and Request That  
This Court Hold His Pro Se Brief to a Less Stringent Standard  
Than One Filed and Prepared by a Season Attorney.

(Thomas v. Eby, 481 U.S. 434, 440 (6th Cir. 2007)), (Haines v.  
Kerner, 404 U.S. 519-21 (1972))

1. The Government's argument is that this Honorable Court "lacks  
jurisdiction to grant Pizarro's motion", because of pending appeal.  
But also argues "the Court has jurisdiction to deny Pizarro's motion".

The Government sites cases where the District Court lack jurisdiction  
to "correct clerical errors" under Fed. R. Crim. P. 36 or "from acting  
to aid the appeal". (United States v. Katsougrakis) Stating the Second  
Circuit held that the District Court in "that case" lacked authority to  
eliminate an unlawful term of "Supervised release".

Here, The District Court regained jurisdiction, when this Honorable  
Court told the government to "respond to the motion to vacate entirely".  
Stopping the appeal. The motion is not to "modify" or "reduce a term of  
imprisonment", as to statute 3582(c)(1)(A) that the government sites. It's to  
vacate completely, and exonerate.

2. The Government further argues "Pizarro has not exhausted his administrative remedies". The facts are Pizarro has submitted two request for relief, but has failed to receive a response (October and November).

The Government alludes that they are aware of "equitable exceptions", but it "does not apply to Pizarro". Alleging "he is not incarcerated in a facility with cases of COVID-19 and is not at high risk". This allegation is far from accurate. See. (attachment A) Over ~~25~~ <sup>25</sup> inmates have tested positive for COVID-19 in one day, in only one general population Housing unit. Which sent the entire prison into a complete lockdown. God only knows how many other inmates are infected in this small facility. This facility has been on lockdown (Housing unit) since March of 2020. The only way inmates can get infected here is by Staff. The same staff that prepares and distributes the inmates meals.

To date, inmates are to just report if they don't feel well or think they have symptoms, which everyone does not show symptoms. No one is coming around testing for COVID-19 or even taking inmates temperature. This is definitely "extraordinary and reasons", along with Pizarro's Showing of innocence, and along with the showing, with non-argumentive evidence, of the governments crimes on this Capital case.

The Government concedes that Pizarro's obesity (which has only gotten worst) is sufficient to establish extraordinary and compelling circumstances. See. (Gruv response pg.9) Pizarro does try to workout regularly do to his lack of movement, do to the severe lockdown at Canaan U.S.P, which Pizarro has no control of. Pizarro is also diagnose with high Cholesterol and hypothyroid, as his medical records will reflect. It is conceded by the government that Pizarro's medical records indicate as of January 2019 his BMI was 35. (As to date, Pizarro's BMI has nearly doubled) The government alludes "att according to the Center of Disease Control, individuals with BMI above 30 are at an increased risk of severe illness if they contract COVID-19.

Pizarro concedes that his argument does reflect ethnicity; but as to date, COVID-19 does not care if one is purple.

3. The Government states "the pandemic itself- without more- does not present extraordinary and compelling circumstances warranting a compassionate release". Also that Pizarro's actual innocence claim is meritless.

Pizarro's claim is far from "meritless"! Pizarro's motion/claim provides a real and substantial showing of non-argumentive evidence. Not Speculation, not hearsay, not guessing, but precise and direct evidence, that these government attorney's have committed felonies on this capital case, that are punishable by disbarrment and imprisonment.

To date these government attorney's Continue to regurgitate evidence that never existed. One being the alleged 2015 Crime evidence. It was alleged that three individuals had their hands and feet bound with "plastic zipties", but in evidence there is not even one ziptie. The evidence and testimony of N.Y.P.D proves there was never any zipties collected.

The Government regurgitates this alleged "finger print" that was on a "Home Depot bag" that later became a "ziptie bag", that went from "a print to two, then three. At trial the bag is alleged to be a black bag with zipties. They provide One staged crime scene photo baring zipties that never was.

The Government proved at trial that the 2016 crime of Mr. Bishun did in fact happen, which no one contest, including Pizarro. They still fail to this every day to identify the unidentified "Masked men with gloves". While still supressing exculpatory evidence as Pizarro's claim/motion clearly makes a showing of.

The Government calls Haynes (a career criminal, facing up to life imprisonment for his own acts) Uncorroborated word (without one piece of evidence to make a showing) "overwhelming evidence". The Government also proffers another finger print and had testified to being identified (Detective John Baumerister) that Pizarro's substantial claim proves with non-argumentive evidence is knowingly false, and not on any evidence.

The Government attorney's on this Capital case, wants this Honorable Court to believe - without one feasible piece of evidence to support their outlandish claim - that the person who really confessed to Bishun's Murder, did so, because "he was trying to 'act tough'". They want this court to believe that their own CI took this persons phone, on more than one occasion, text himself from this persons phone, confessing that this person was involved in Bishun's murder, implicates himself, see. (text: "As we did") while allegedly trying to frame this person.

The Government proffers "there is overwhelming and compelling evidence of this". "The CI's own word". They allege to this court, that "the text messages and confession (DEA-6) is in fact false", because "every single detail of this crime was displayed on the news by September 21, 2016". (Stipulation) On the same account, the Government also wants this Honorable Court to believe Haynes' testimony, after he testified to have "seen every detail of the crime on channel 12 news". Allegedly before "meeting up with Pizarro", at a "carwash", where it was alleged "Pizarro confessed".

They also allege, "The overwhelming and compelling evidence is Haynes own word". All alleged accusations of Pizarro's involvement in these crimes, and theory behind it, is all on the account of "Haynes word". (uncorroborated) The Government had several opportunities to corroborate "Haynes word". One, being Surveillance video from 1631 Stillwell ave. Two, being Surveillance video from the car wash. But, they failed to do so. This is because it doesn't exist, like the 2015 Crime Zipties.

The Government also fails to even reveal crucial evidence to this Honorable Court. Evidence of the same person who really confessed. Confessing on audio recording, (created by their own CI) admitting to ordering several murders, using the name of the same person identified in the DEA-6 Report. (See DEA-6 Report) As to involvement of killing Bishun, Killing for him in the past on his behalf. See. (audio recording pg. 107)

Pizarro is not asking this Honorable Court to take him at his word like the government attorney's present on this capital case want this Court to do, with their uncorroborated hearsay evidence. No! Pizarro is providing clear and direct substantial evidence.

Pizarro's understanding is that he has the burden of proving everything he presents, including that he is not a danger to his Community. The government wants this Honorable court to believe that he is a danger, but they also want this court believe evidence that doesn't exist. Pizarro is 40 years of age to date. He has never been accused or convicted (with the exception of these false allegations) of any violence.

Pizarro has provided this Honorable Court with a copy of his GED that he obtain while maintaining appropriate and clear Conduct throughout his very trying and Stressful, 44 months false of imprisonment, being falsely accused and convicted. He has also provided his clear and blemish free conduct sheet from the BOP. Pizarro is not a danger in a level Seven Penitentiary, where extreme violence is displayed daily, and he's definitely not a danger to his very own Community, as provided in 18 U.S.C. Statute 3142 (g).

Pizarro's substantial evidence provided to this Honorable Court proves that the governments illegally obtain circumstantial evidence is in fact false, inaccurate, and created.

The Government alludes that "this brutal ~~crime~~ crime left Bishun's parents without a son his wife without her husband, and his kids without their father". Pizarro totally agrees and understands, because of the governments crimes against him, that left the Pizarro family feeling the same exact way. Pizarro has three beautiful kids, youngest 6 at the time, soon to be 10 now. Every Christmas the item at the top of his Christmas list is his Dad. And when he doesn't get that so desirable gift, he cries all day saying "his been a good boy all year".

In all reality the government is responsible for these two grieving families, as the undeniable evidence provided proves. The Bishun family because of the negligence and neglect of Mr. Bishun's claim to them, that "his life was in danger". And to the Pizarro family, by providing knowingly false and created evidence to arrest and convict him to life plus in one of the most violent Penitentiary's in America.

On page 12 of the governments response, they state: "Pizarro has yet to demonstrate any remorse for his crime or to take accountability for it. Instead he continues to repeat the same completely meritless claim that he offered at his sentencing - that there is no evidence linking him to the crimes and that he is actually innocent".

Yes! Pizarro does continue to argue with clear and substantial evidence, to reclaim he good name, that he is in fact innocent of the crimes charged. In addition, from the very begining of time, the law of these United States are to provide evidence of one's guilt. Not to create falsely, not to cover up, not speculate, and not to guess, but to provide clear, accurate, and direct evidence to imprison anyone, let alone a death sentence.

The Government also states: "with respect to general deterrence, there remains a need for the Court to send a strong message to those who break the law". Pizarro totally agrees with the government on that subject. ANYONE who breaks the law, including government attorney's. There has to be deterence! The Court should definitely show it's authority in the interest of justice, and send a strong message to anyone who feel they can break the law & get away with it, including Government and defense attorney's alike. To let it be known that this type of behaviour is prohibited and will not be tolerated in the Court of law or anywhere else. It has to be deterence, no one is above the law, and these are personakl who is suppose to lead by example.

The very clear and accurate substantial evidence provided to this Honorable Court, presented by Pizarno is not created, not hearsay, not non-existent, not "according" to a CT, not coence, and not presented by a false witness. It is facts, supported by accurate and substantial direct evidence.

Now that the wool has been pulled from in front of this Honorable Courts eyes, it can see that the evidence is clear as day. There was never zip ties, there was never ei "Home Depot bag" "containing those same zip ties" that later changed to a zip tie bag, and Pizarno's Prints was never at any crime scene. Also, the evidence proves several crucial witnesses are/were coerce.

In the interest of Justice, the only legal thing to be done is that this case in its entirety be overturned and dismissed with prejudice. Not because Pizarno or anyone else says so, it's only because the substantial evidence provided says so. It's been conceded by both parties, it has to be deference, and because of the evidence provided by Pizarno who has the burden of making a substantial showing, has beyond a reasonable doubt done so. Petitioner so prays this Honorable court grants all his petitions.

Respectfully Submitted  
Pro Se Petitioner  
Robert Pizarno

Certificate of Service, November 26, 2020

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